

**REMARKS**

Applicant respectfully requests reconsideration. Claims 1-4 were previously pending in this application. By this amendment, claim 1 has been amended and new claim 5 has been added. As a result, claims 1-5 are pending for examination with claim 1 being the sole independent claim. No new matter has been added. Applicant respectfully requests reconsideration in view of these amendments and the following arguments.

***Rejections Under 35 U.S.C. §112(2)***

In the Office Action dated March 16, 2006, claim 1-4 were rejected under 35 U.S.C. §112(2) as being indefinite for failing to particularly point out and distinctly claim the subject matter. In particular, the Examiner points out that in claim 1, the limitations “the width”, “the thickness”, “the major portion” and “the back” lack antecedent basis.

Claim 1 has been amended in a manner to address the Examiner’s concerns. As amended, claim 1 recites that the spine has a length and a width, “the major portion” has been amended to recite “across a majority”, and “the back” has been amended to recite “the first leg”.

Accordingly, withdrawal of this rejection is respectfully requested.

***Rejections Under 35 U.S.C. §103***

In the Office Action dated March 16, 2006, claims 1-4 were rejected under 35 U.S.C. §103 as being unpatentable over Labin (GB 518849) in view of Proffit (U.S. Patent No. 6,360,890). To further the prosecution of this application, Applicant has amended independent claim 1 to more clearly distinguish over Labin and Proffit.

As amended, independent claim 1 is directed to a medical record binder for medical records and X-ray negatives. The binder includes a front panel, a back panel and an intermediate spine formed of a single piece of uniformly thick durable plastic material. The spine is defined from the front and back panels by spaced parallel segments of reduced thickness of the plastic material. These segments extend from one edge to the opposite edge of the binder defining hinges. The spine has a length and a width, and the binder has a thickness defined by the width of the spine. The binder further includes a holder *integrally* formed of flexible plastic, substantially coextensive with the length of the spine, the holder comprising an *angularly formed*

elongated member with *a first leg* forming a back and *a second leg* forming a loop defined from one another by a line of reduced thickness of the elongated member extending lengthwise of the member. The second leg defines an elongated opening extending across a majority of the length of the holder and a width extending laterally across a majority of the second leg. The binder also includes means for securing the first leg to the spine.

Labin is directed to a binder for holding loose leaf papers having a retaining member in the form of a rubber band. As shown in FIG. 2, the binder in Labin includes a strip C attached to the binder cover A, with a hinged carrier B holding the rubber bands E. Notches or teeth E may be provided on the ends of the carrier B to prevent the rubber bands from falling off. As shown in FIGS. 2 and 4, the carrier B may move relative to the strip C to place or remove rubber bands around the carrier B.

Proffit is directed to a storage book for holding a plurality of substantially flat objects. The book includes a front and back cover interconnected by a spine member 16. As shown in FIG. 2, the spine member may be formed by two grooves which separate the spine member 16 from the front and back cover.

The Office Action states that Labin discloses the features recited in claim 1, except that Labin does not disclose the spine defined by spaced parallel segments of reduced thickness to define a hinge. To fill this gap, the Office Action states that in view of Proffit, it would have been obvious to one having ordinary skill in the art at the time the invention was made to modify Labin's binder with a spine defined by parallel segments having reduced thickness as taught by Proffit for providing a spine defined by hinges.

Setting aside the issue of whether there is motivation for the reference combination, Applicant has amended claim 1 in a manner to more clearly distinguish over Labin and Proffit. In particular, amended claim 1 recites a holder *integrally formed of flexible plastic* including an *angularly formed* elongated member with *a first leg* forming a back and *a second leg* forming a loop defining an elongated opening extending across a majority of the length of the holder and a width extending laterally across a majority of the second leg. Labin does not teach or suggest a holder having an angularly formed elongated member. At most, Labin discloses a rubber band which is used as a paper retaining member. As discussed in the application, the prior art binders (such as Labin) which hold papers include moving parts and assembly. ( p. 2, lines 1-4). In

contrast, the angularly formed elongated member of the present invention does not require moving parts or assembly. Also, as discussed in the application, the present invention does not require any manipulation of releasable components such as has been the case in the prior art systems. (p. 5, lines 15-19). Furthermore, Proffit also does not teach or suggest the holder having an angularly formed elongated member as recited in amended independent claim 1.

For at least these reasons, claim 1 is patentable over Labin and Proffit. Claims 2-4 depend from claim 1 and are patentable for at least the same reasons.

Accordingly, withdrawal of these rejections is respectfully requested.

#### *New Claims*

Applicant has added new dependent claim 5 to further define the invention. Support for claim 5 may be found at least in FIGS. 2-4. New claim 5 depends from new claim 1 and is patentable for at least the same reasons as claim 1.

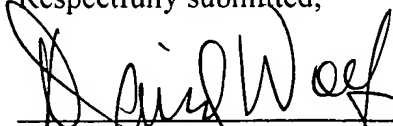
#### CONCLUSION

A Notice of Allowance is respectfully requested. The Examiner is requested to call the undersigned at the telephone number listed below if this communication does not place the case in condition for allowance.

If this response is not considered timely filed and if a request for an extension of time is otherwise absent, Applicant hereby requests any necessary extension of time. If there is a fee occasioned by this response, including an extension fee, that is not covered by an enclosed check, please charge any deficiency to Deposit Account No. 23/2825.

Respectfully submitted,

By:



David Wolf, Reg. No. 17,528  
Shannon Pratt, Reg. No. 55,548  
Wolf, Greenfield & Sacks, P.C.  
600 Atlantic Avenue  
Boston, Massachusetts 02210-2206  
Telephone: (617) 646-8000

Date: June 16, 2006  
x06/16/06x